

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 5155 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA

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MUKESH NARSINHBHAI PATEL

Versus

NATHUBHAI SHAMJIBHAI PATEL

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Appearance:

MR KJ SHETHNA for Petitioner

MR AKSHAY H MEHTA for Respondent No. 1

Mr.S.T.Mehta, APP for Respondent No. 2

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CORAM : MR.JUSTICE N.J.PANDYA

Date of decision: 17/09/97

ORAL JUDGEMENT

Rule. Mr.S.T.Mehta, ld. APP waives service for  
respondent no.2 and for respondent no.1 Mr.Akshay Mehta  
waives service.

2. Yesterday, when the matter came up in presence of  
the learned Public Prosecutor, it was ascertained from  
respondent no.1 as to the correct position of the matter.  
It seems that originally having filed a complaint, which  
is the subject matter of the present petition on  
17-8-1997, he found that so far as the loss of cash and  
wrist watch is concerned, it is not correct and they in  
fact, were found in his house itself. Reiterating this  
position, he had addressed a letter dated 12-9-1997 to  
the concerned Police Inspector where the said complaint,  
Annexure A, page 15 was also lodged. If this had been  
the position, the matter would have been simple.  
However, on account of intervention of somebody, it seems  
that one more affidavit, in the meantime, was prepared,  
where he had stated that earlier affidavit dated

29-8-1997 was the result of physical force and coercion. However, it being of 29-8-97 and the second one being of 2-9-97, obviously, it is difficult to believe that the physical force or the coercion or both would have continued for the entire period. Otherwise also, subsequent thereto in no uncertain terms, when he has addressed a letter dated 12-9-1997 to said P.I. of Sanand Police Station with copies having been endorsed to the DSP, Ahmedabad (Rural), JMFC, Sanand and the District & Sessions Judge, Ahmedabad Rural, it seems that better sense has prevailed and the matter is a well forgotten past.

3. The matter may now be treated as a well-forgotten past. In order to make sure the signature below page 25, internal page 3 of the letter dated 12-9-1997 was got verified with the signature that appears on the certified copy (xerox) of the FIR, Annexure C. The vakalatnama that he has signed also bears the same signature. Otherwise also, yesterday when I had talked with respondent no.1, the original complainant in presence of the learned APP, Mr.Mehta, both of us were individually satisfied about the final outcome of the matter as stated in the said letter Annexure D dated 12-9-1997 which conforms to the earlier affidavit Annexure B dated 29-8-1997.

4. Under the circumstances, it is not possible to say that in respect of complaint Annexure A, page 15, certified copy of which is at Annexure C, there could be an offence under Sec.211 IPC. To further ensure that respondent no.1 is not put to any such danger, learned Advocate appearing for the petitioner, who is the original accused of that complaint, Annexure A page 15, and the petitioner himself stated before the Court that the petitioner does not intend either to take civil action or criminal action in respect of said complaint against respondent no.1. They are closely related and they are first-cousins. An undertaking accordingly shall be given by the petitioner, who is present in the Court.

5. Under the circumstances, the two conflicting versions now before the police will lose their significance. For the aforesaid reasons, the petition stands allowed. The complaint is quashed. Rule is made absolute.

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